

REFERENCE TITLE: real estate transaction coordinators

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1598

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 32-2101, 32-2153 AND 32-2155, ARIZONA REVISED STATUTES;
RELATING TO REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2101, Arizona Revised Statutes, is amended to
3 read:

4 32-2101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acting in concert" means evidence of collaborating to pursue a
7 concerted plan.

8 2. "Advertising" means the attempt by publication, dissemination,
9 exhibition, solicitation or circulation, oral or written, or for broadcast
10 on radio or television to induce directly or indirectly any person to
11 enter into any obligation or acquire any title or interest in lands
12 subject to this chapter, including the land sales contract to be used and
13 any photographs, drawings or artist's presentations of physical conditions
14 or facilities existing or to exist on the property. Advertising does not
15 include:

16 (a) Press releases or other communications delivered to newspapers,
17 periodicals or other news media for general information or public
18 relations purposes if no charge is made by the newspapers, periodicals or
19 other news media for the publication or use of any part of these
20 communications.

21 (b) Communications to stockholders as follows:

22 (i) Annual reports and interim financial reports.

23 (ii) Proxy materials.

24 (iii) Registration statements.

25 (iv) Securities prospectuses.

26 (v) Applications for listing of securities on stock exchanges.

27 (vi) Prospectuses.

28 (vii) Property reports.

29 (viii) Offering statements.

30 3. "Affiliate" means a person who, directly or indirectly through
31 one or more intermediaries, controls, is controlled by or is under common
32 control with the person specified.

33 4. "Associate broker" means a licensed broker who is employed by
34 another broker. Unless otherwise specifically provided, an associate
35 broker has the same license privileges as a salesperson.

36 5. "Barrier" means a natural or man-made geographical feature that
37 prevents parcels of land from being practicably, reasonably and
38 economically united or reunited and that was not caused or created by the
39 owner of the parcels.

40 6. "Blanket encumbrance" means any mortgage, any deed of trust or
41 any other encumbrance or lien securing or evidencing the payment of money
42 and affecting more than one lot or parcel of subdivided land, or an
43 agreement affecting more than one lot or parcel by which the subdivider
44 holds the subdivision under an option, contract to sell or trust

1 agreement. Blanket encumbrance does not include taxes and assessments
2 that are levied by public authority.

3 7. "Board" means the state real estate advisory board.

4 8. "Broker", when used without modification, means a person who is
5 licensed as a broker under this chapter or who is required to be licensed
6 as a broker under this chapter.

7 9. "Business broker" means a real estate broker who acts as an
8 intermediary or agent between sellers or buyers, or both, in the sale or
9 purchase, or both, of businesses or business opportunities where a lease
10 or sale of real property is either a direct or incidental part of the
11 transaction.

12 10. "Camping site" means a space that is designed and promoted for
13 the purpose of locating any trailer, tent, tent trailer, pickup camper or
14 other similar device used for camping.

15 11. "Cemetery" or "cemetery property" means any one, or a
16 combination of more than one, of the following in a place that is used, or
17 intended to be used, and dedicated for cemetery purposes:

18 (a) A burial park, for earth interments.

19 (b) A mausoleum, for crypt or vault entombments.

20 (c) A crematory, or a crematory and columbarium, for cinerary
21 interments.

22 (d) A cemetery plot, including interment rights, mausoleum crypts,
23 niches and burial spaces.

24 12. "Cemetery broker" means a person other than a real estate
25 broker or real estate salesperson who, for another, for compensation:

26 (a) Sells, leases or exchanges cemetery property or interment
27 services of or for another, or on the person's own account.

28 (b) Offers for another or for the person's own account to buy,
29 sell, lease or exchange cemetery property or interment services.

30 (c) Negotiates the purchase and sale, lease or exchange of cemetery
31 property or interment services.

32 (d) Negotiates the purchase or sale, lease or exchange, or lists or
33 solicits, or negotiates a loan on or leasing of cemetery property or
34 interment services.

35 13. "Cemetery salesperson" means a natural person who acts on the
36 person's own behalf or through and on behalf of a professional limited
37 liability company or a professional corporation engaged by or on behalf of
38 a licensed cemetery or real estate broker, or through and on behalf of a
39 corporation, partnership or limited liability company that is licensed as
40 a cemetery or real estate broker, to perform any act or transaction
41 included in the definition of cemetery broker.

42 14. "Commissioner" means the state real estate commissioner.

43 15. "Common promotional plan" means a plan, undertaken by a person
44 or a group of persons acting in concert, to offer lots for sale or
45 lease. If the land is offered for sale by a person or group of persons

1 acting in concert, and the land is contiguous or is known, designated or
2 advertised as a common unit or by a common name, the land is presumed,
3 without regard to the number of lots covered by each individual offering,
4 as being offered for sale or lease as part of a common promotional
5 plan. Separate subdividers selling lots or parcels in separately platted
6 subdivisions within a master planned community shall not be deemed to be
7 offering their combined lots for sale or lease as part of a common
8 promotional plan.

9 16. "Compensation" means any fee, commission, salary, money or
10 other valuable consideration for services rendered or to be rendered as
11 well as the promise of consideration whether contingent or not.

12 17. "Contiguous" means lots, parcels or fractional interests that
13 share a common boundary or point. Lots, parcels or fractional interests
14 are not contiguous if they are separated by either of the following:

15 (a) A barrier.

16 (b) A road, street or highway that has been established by this
17 state or by any agency or political subdivision of this state, that has
18 been designated by the federal government as an interstate highway or that
19 has been regularly maintained by this state or by any agency or political
20 subdivision of this state and has been used continuously by the public for
21 at least the last five years.

22 18. "Control" or "controlled" means a person who, through
23 ownership, voting rights, power of attorney, proxy, management rights,
24 operational rights or other rights, has the right to make decisions
25 binding on an entity, whether a corporation, a partnership or any other
26 entity.

27 19. "Corporation licensee" means a lawfully organized corporation
28 that is registered with the Arizona corporation commission and that has an
29 officer licensed as the designated broker pursuant to section 32-2125.

30 20. "Department" means the state real estate department.

31 21. "Designated broker" means the natural person who is licensed as
32 a broker under this chapter and who is either:

33 (a) Designated to act on behalf of an employing real estate,
34 cemetery or membership camping entity.

35 (b) Doing business as a sole proprietor.

36 22. "Developer" means a person who offers real property in a
37 development for sale, lease or use, either immediately or in the future,
38 on the person's own behalf or on behalf of another person, under this
39 chapter. Developer does not include a person whose involvement with a
40 development is limited to the listing of property within the development
41 for sale, lease or use.

42 23. "Development" means any division, proposed division or use of
43 real property that the department has authority to regulate, including
44 subdivided and unsubdivided lands, cemeteries, condominiums, timeshares,
45 membership campgrounds and stock cooperatives.

1 24. "Employing broker" means a person who is licensed or is
2 required to be licensed as a:

3 (a) Broker entity pursuant to section 32-2125, subsection A.

4 (b) Sole proprietorship if the sole proprietor is a broker licensed
5 pursuant to this chapter.

6 25. "Fractional interest" means an undivided interest in improved
7 or unimproved land, lots or parcels of any size created for the purpose of
8 sale or lease and evidenced by any receipt, certificate, deed or other
9 document conveying the interest. Undivided interests in land, lots or
10 parcels created in the names of a husband and wife as community property,
11 joint tenants or tenants in common, or in the names of other persons who,
12 acting together as part of a single transaction, acquire the interests
13 without a purpose to divide the interests for present or future sale or
14 lease shall be deemed to constitute only one fractional interest.

15 26. "Improved lot or parcel" means a lot or parcel of a subdivision
16 on which ~~lot or parcel~~ there is a residential, commercial or industrial
17 building or concerning which a contract has been entered into between a
18 subdivider and a purchaser that obligates the subdivider directly, or
19 indirectly through a building contractor, to complete construction of a
20 residential, commercial or industrial building on the lot or parcel within
21 two years ~~from~~ AFTER the date on which the contract of sale for the lot is
22 entered into.

23 27. "Inactive license" means a license that is issued pursuant to
24 article 2 of this chapter to a licensee who is on inactive status during
25 the current license period and who is not engaged by or on behalf of a
26 broker.

27 28. "Lease" or "leasing" includes any lease, whether it is the
28 sole, the principal or any incidental part of a transaction.

29 29. "License" means the whole or part of any agency permit,
30 certificate, approval, registration, public report, charter or similar
31 form of permission required by this chapter.

32 30. "Licensee" means a person to whom a license for the current
33 license period has been granted under any provision of this chapter, and,
34 for THE purposes of section 32-2153, subsection A, ~~shall include~~ INCLUDES
35 original license applicants.

36 31. "License period" means the two-year period beginning with the
37 date of original issue or renewal of a particular license and ending on
38 the expiration date, if any.

39 32. "Limited liability company licensee" means a lawfully organized
40 limited liability company that has a member or manager who is a natural
41 person and who is licensed as the designated broker pursuant to section
42 32-2125.

43 33. "Lot reservation" means an expression of interest by a
44 prospective purchaser in buying at some time in the future a subdivided or
45 unsubdivided lot, unit or parcel in this state. In all cases, a

subsequent affirmative action by the prospective purchaser must be taken to create a contractual obligation to purchase.

34. "Master planned community" means a development that consists of two or more separately platted subdivisions and that is either subject to a master declaration of covenants, conditions or restrictions, is subject to restrictive covenants sufficiently uniform in character to clearly indicate a general scheme for ~~improvement~~ IMPROVING or ~~development of~~ DEVELOPING real property or is governed or administered by a master owner's association.

35. "Member" means a member of the real estate advisory board.

36. "Membership camping broker" means a person, other than a salesperson, who, for compensation:

(a) Sells, purchases, lists, exchanges or leases membership camping contracts.

(b) Offers to sell, purchase, exchange or lease membership camping contracts.

(c) Negotiates or offers, attempts or agrees to negotiate the sale, purchase, exchange or lease of membership camping contracts.

(d) Advertises or holds himself out as being engaged in the business of selling, buying, exchanging or leasing membership camping contracts or counseling or advising regarding membership camping contracts.

(e) Assists or directs in ~~the~~ procuring ~~of~~ prospects calculated or intended to result in the sale, purchase, listing, exchange or lease of membership camping contracts.

(f) Performs any of the foregoing acts as an employee or on behalf of a membership camping operator or membership contract owner.

37. "Membership camping contract" means an agreement that is offered or sold in this state evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator and includes a membership that provides for this use.

38. "Membership camping operator" means an enterprise, other than one that is tax exempt under section 501(c)(3) of the internal revenue code of 1986, as amended, that solicits membership paid for by a fee or periodic payments and has as one of its purposes camping or outdoor recreation, including the use of camping sites primarily by members. Membership camping operator does not include camping or recreational trailer parks that are open to the general public and that contain camping sites rented for a per use fee or a mobile home park.

39. "Membership camping salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed membership camping or real estate broker, or by or on behalf of a corporation, partnership or limited liability company that is licensed as a membership camping or real estate broker, to perform any act

1 or participate in any transaction in a manner included in the definition
2 of membership camping broker.

3 40. "Online course" means prelicensure education that is a planned
4 learning experience with a geographic separation that may be synchronous
5 or asynchronous, that does not require real-time interaction between a
6 student and an instructor and that uses a platform with self-paced or
7 prerecorded lessons and materials that a student can access via the
8 internet to proceed at the student's own pace.

9 41. "Partnership licensee" means a partnership with a managing
10 general partner who is licensed as the designated broker pursuant to
11 section 32-2125.

12 42. "Permanent access", as required under article 4 of this
13 chapter, means permanent access from the subdivision to any federal, state
14 or county highway.

15 43. "Perpetual care" or "endowed care" means ~~the maintenance~~
16 ~~MAINTAINING~~ and ~~care of~~ ~~CARING~~, ~~IN~~ all places where interments have been
17 made, ~~of~~ ~~FOR~~ the trees, shrubs, roads, streets and other improvements and
18 embellishments contained within or forming a part of the cemetery but does
19 not include ~~the maintenance~~ ~~MAINTAINING~~ or ~~repair of~~ ~~REPAIRING~~ monuments,
20 tombs, copings or other man-made ornaments as associated with individual
21 burial spaces.

22 44. "Perpetual or endowed-care cemetery" means a cemetery ~~wherein~~
23 ~~IN WHICH~~ lots or other burial spaces are sold or transferred under the
24 representation that the cemetery will receive perpetual care or endowed
25 care free of further cost to the purchaser after payment of the original
26 purchase price for the lot, burial space or interment right.

27 45. "Person" means any individual, corporation, partnership or
28 company and any other form of multiple organization for carrying on
29 business, foreign or domestic.

30 46. "Private cemetery" means a cemetery or place that is not
31 licensed under article 6 of this chapter, where burials or interments of
32 human remains are made, in which sales or transfers of interment rights or
33 burial plots are not made to the public and in which not more than ten
34 interments or burials occur annually.

35 47. "Promotion" or "promotional practice" means advertising and any
36 other act, practice, device or scheme to induce directly or indirectly any
37 person to enter into any obligation or acquire any title or interest in or
38 use of real property subject to this chapter, including meetings with
39 prospective purchasers, arrangements for prospective purchasers to visit
40 real property, travel allowances and discount, exchange, refund and
41 cancellation privileges.

42 48. "Real estate" includes leasehold-interests and any estates in
43 land as defined in title 33, chapter 2, articles 1 and 2, regardless of
44 whether located in this state.

1 49. "Real estate broker" means a person, other than a salesperson,
2 who, for another and for compensation:

3 (a) Sells, exchanges, purchases, rents or leases real estate,
4 businesses and business opportunities or timeshare interests.

5 (b) Offers to sell, exchange, purchase, rent or lease real estate,
6 businesses and business opportunities or timeshare interests.

7 (c) Negotiates or offers, attempts or agrees to negotiate the sale,
8 exchange, purchase, rental or leasing of real estate, businesses and
9 business opportunities or timeshare interests.

10 (d) Lists or offers, attempts or agrees to list real estate,
11 businesses and business opportunities or timeshare interests for sale,
12 lease or exchange.

13 (e) Auctions or offers, attempts or agrees to auction real estate,
14 businesses and business opportunities or timeshare interests.

15 (f) Buys, sells, offers to buy or sell or otherwise deals in
16 options on real estate, businesses and business opportunities or timeshare
17 interests or improvements to real estate, businesses and business
18 opportunities or timeshare interests.

19 (g) Collects or offers, attempts or agrees to collect rent for the
20 use of real estate, businesses and business opportunities or timeshare
21 interests.

22 (h) Advertises or holds himself out as being engaged in the
23 business of buying, selling, exchanging, renting or leasing real estate,
24 businesses and business opportunities or timeshare interests or counseling
25 or advising regarding real estate, businesses and business opportunities
26 or timeshare interests.

27 (i) Assists or directs in ~~the procuring of~~ prospects, ~~THAT ARE~~
28 calculated to result in the sale, exchange, leasing or rental of real
29 estate, businesses and business opportunities or timeshare interests.

30 (j) Assists or directs in ~~the negotiation of~~ NEGOTIATING any
31 transaction calculated or intended to result in the sale, exchange,
32 leasing or rental of real estate, businesses and business opportunities or
33 timeshare interests.

34 (k) Incident to the sale of real estate, businesses and business
35 opportunities negotiates or offers, attempts or agrees to negotiate a loan
36 secured or to be secured by any mortgage or other encumbrance on or
37 transfer of real estate, businesses and business opportunities or
38 timeshare interests subject to section 32-2155, subsection C. This
39 subdivision does not apply to mortgage brokers as defined in and subject
40 to title 6, chapter 9, article 1.

41 (l) Engages in the business of assisting or offering to assist
42 another in filing an application for the purchase or lease of, or in
43 locating or entering on, lands owned by the state or federal government.

(m) Claims, demands, charges, receives, collects or contracts ~~for the collection of~~ **TO COLLECT** an advance fee in connection with any employment enumerated in this section, including employment undertaken to promote the sale or lease of real property by advance fee listing, by furnishing rental information to a prospective tenant for a fee paid by the prospective tenant, by advertisement or by any other offering to sell, lease, exchange or rent real property or selling kits connected therewith. This shall not include the activities of any communications media of general circulation or coverage not primarily engaged in the advertisement of real estate or any communications media activities that are specifically exempt from applicability of this article under section 32-2121.

(n) Engages in any of the acts listed in subdivisions (a) through (m) of this paragraph for the sale or lease of other than real property if a real property sale or lease is a part of, contingent on or ancillary to the transaction.

(o) Performs any of the acts listed in subdivisions (a) through (m) of this paragraph as an employee of, or in behalf of, the owner of real estate, or interest in the real estate, or improvements affixed on the real estate, for compensation.

(p) Acts as a business broker.

50. "Real estate sales contract" means an agreement in which one party agrees to convey title to real estate to another party on the satisfaction of specified conditions set forth in the contract.

51. "Real estate salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed real estate broker, or by or on behalf of a limited liability company, partnership or corporation that is licensed as a real estate broker, to perform any act or participate in any transaction in a manner included in the definition of real estate broker subject to section 32-2155.

52. "Sale" or "lease" includes every disposition, transfer, option or offer or attempt to dispose of or transfer real property, or an interest, use or estate in the real property, including ~~the offering of~~ the property as a prize or gift if a monetary charge or consideration for whatever purpose is required.

53. "Salesperson", when used without modification, means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation licensed under this chapter or any person required to be licensed as a salesperson under this chapter.

54. "School" means a person or entity that offers a course of study towards completion of the education requirements leading to licensure or renewal of licensure under this chapter.

1 55. "Stock cooperative" means a corporation to which all of the
2 following apply:

3 (a) The corporation is formed or used to hold title to improved
4 real property in fee simple or for a term of years.

5 (b) All or substantially all of the shareholders of the corporation
6 each receive a right of exclusive occupancy in a portion of the real
7 property to which the corporation holds title.

8 (c) The right of occupancy may only be transferred with the
9 concurrent transfer of the shares of stock in the corporation held by the
10 person having the right of occupancy.

11 56. "Subdivider" means any person who offers for sale or lease six
12 or more lots, parcels or fractional interests in a subdivision or who
13 causes land to be subdivided into a subdivision for the subdivider or for
14 others, or who undertakes to develop a subdivision, but does not include a
15 public agency or officer authorized by law to create subdivisions.

16 57. "Subdivision" or "subdivided lands":

17 (a) Means improved or unimproved land or lands divided or proposed
18 to be divided for the purpose of sale or lease, whether immediate or
19 future, into six or more lots, parcels or fractional interests.

20 (b) Includes a stock cooperative, lands divided or proposed to be
21 divided as part of a common promotional plan and residential condominiums
22 as defined in title 33, chapter 9.

23 (c) Does not include:

24 (i) Leasehold offerings of one year or less.

25 (ii) The division or proposed division of land located in this
26 state into lots or parcels each of which is or will be thirty-six acres or
27 more in area including to the centerline of dedicated roads or easements,
28 if any, contiguous to the lot or parcel.

29 (iii) The leasing of agricultural lands or apartments, offices,
30 stores, hotels, motels, pads or similar space within an apartment
31 building, industrial building, rental recreational vehicle community,
32 rental manufactured home community, rental mobile home park or commercial
33 building.

34 (iv) The subdivision into or development of parcels, plots or
35 fractional portions within the boundaries of a cemetery that has been
36 formed and approved pursuant to this chapter.

37 (v) A sale or lease of a lot, parcel or fractional interest that
38 occurs ten or more years after the sale or lease of another lot, parcel or
39 fractional interest if the other lot, parcel or fractional interest is not
40 subject to this article and is treated as an independent parcel unless, on
41 investigation by the commissioner, there is evidence of intent to
42 subdivide.

43 58. "Timeshare" or "timeshare property" means real property
44 ownership or right of occupancy in real property pursuant to article 9 of
45 this chapter. For the purposes of this chapter, a timeshare is not a

1 security unless it meets the definition of a security under section
2 44-1801.

3 59. "TRANSACTION COORDINATOR" MEANS A PERSON WHO ASSISTS A LICENSEE
4 WITH ADMINISTRATIVE DUTIES DURING A REAL ESTATE TRANSACTION.

5 ~~59.~~ 60. "Trustee" means:

6 (a) A person who is designated under section 32-2194.27 to act as a
7 trustee for an endowment-care cemetery fund.

8 (b) A person holding bare legal title to real property under a
9 subdivision trust. A trustee shall not be deemed to be a developer,
10 subdivider, broker or salesperson within this chapter.

11 ~~60.~~ 61. "Unimproved lot or parcel" means a lot or parcel of a
12 subdivision that is not an improved lot or parcel.

13 ~~61.~~ 62. "Unsubdivided lands":

14 (a) Means land or lands divided or proposed to be divided for the
15 purpose of sale or lease, whether immediate or future, into six or more
16 lots, parcels or fractional interests and the lots or parcels are
17 thirty-six acres or more each but less than one hundred sixty acres each,
18 or that are offered, known or advertised under a common promotional plan
19 for sale or lease, except that agricultural leases shall not be included
20 in this definition.

21 (b) Includes any land that is sold AND that would otherwise
22 constitute the sixth lot, parcel or fractional interest if the sale occurs
23 ten or more years after the earliest of the previous five sales and if all
24 of the sales consist of property that was originally contained within the
25 same parcel that is thirty-six acres or more and less than one hundred
26 sixty acres.

27 Sec. 2. Section 32-2153, Arizona Revised Statutes, is amended to
28 read:

29 32-2153. Grounds for denial, suspension or revocation of
30 licenses; letters of concern; provisional license;
31 retention of jurisdiction by commissioner;
32 definitions

33 A. The commissioner may suspend or revoke a license, deny the
34 issuance of a license, issue a letter of concern to a licensee, issue a
35 provisional license or deny the renewal or the right of renewal of a
36 license issued under this chapter if it appears that the holder or
37 applicant, within five years immediately preceding, in the performance of
38 or attempt to perform any acts authorized by the license or by this
39 chapter, has:

40 1. Pursued a course of misrepresentation or made false promises,
41 either directly or through others, whether acting in the role of a
42 licensee or a principal in a transaction.

43 2. Acted for more than one party in a transaction without the
44 knowledge or consent of all parties to the transaction.

1 3. Disregarded or violated any of the provisions of this chapter or
2 any rules adopted by the commissioner.

3 4. Knowingly authorized, directed, connived at or aided in the
4 publication, advertisement, distribution or circulation of any material
5 false or misleading statement or representation concerning the licensee's
6 business or any land, cemetery property, subdivision or membership
7 campground or camping contract offered for sale in this or any other
8 state.

9 5. Knowingly used the term "real estate broker", "cemetery broker"
10 or "membership camping broker" without THE legal right to do so.

11 6. Employed any unlicensed salesperson or unlicensed associate
12 broker.

13 7. Accepted compensation as a licensee for ~~the performance of~~
14 PERFORMING any of the acts specified in this chapter from any person other
15 than the licensed broker to whom the licensee is licensed, the licensed
16 professional corporation of which the licensee is an officer and
17 shareholder or the licensed professional limited liability company of
18 which the licensee is a member or manager. THIS PARAGRAPH DOES NOT APPLY
19 IF THE LICENSEE OR APPLICANT IS A TRANSACTION COORDINATOR.

20 8. Represented or attempted to represent a broker other than the
21 broker to whom the salesperson or associate broker is licensed.

22 9. Failed, within a reasonable time, to account for or to remit any
23 monies, to surrender to the rightful owner any documents or other valuable
24 property coming into the licensee's possession and that belongs to others,
25 or to issue an appraisal report on real property or cemetery property in
26 which the licensee has an interest, unless the nature and extent of the
27 interest are fully disclosed in the report.

28 10. Paid or received any rebate, profit, compensation or commission
29 in violation of this chapter.

30 11. Induced any party to a contract to break the contract for the
31 purpose of substituting a new contract with the same or a different
32 principal, if the substitution is motivated by the personal gain of the
33 licensee.

34 12. Placed a sign on any property offering it for sale or for rent
35 without the written authority of the owner or the owner's authorized
36 agent.

37 13. Solicited, either directly or indirectly, prospects for the
38 sale, lease or use of real property, cemetery property or membership
39 camping contracts through a promotion of a speculative nature involving a
40 game of chance or risk or through conducting lotteries or contests that
41 are not specifically authorized under this chapter.

42 14. Failed to pay to the commissioner the renewal fee as specified
43 in this chapter promptly and before the time specified.

1 15. Failed to keep an escrow or trust account or other record of
2 ~~funds~~ MONIES deposited with the licensee relating to a real estate
3 transaction.

4 16. Commingled the ~~money~~ MONIES or other property of the licensee's
5 principal or client with the licensee's own or converted ~~that money~~ THOSE
6 MONIES or property to the licensee or another.

7 17. Failed or refused ~~upon~~ ON demand to produce any document,
8 contract, book, record, information, compilation or report that is in the
9 licensee's possession or that the licensee is required by law to maintain
10 concerning any real estate, cemetery or membership camping business,
11 services, activities or transactions involving or conducted by the
12 licensee for inspection by the commissioner or the commissioner's
13 representative.

14 18. Failed to maintain a complete record of each transaction ~~which~~
15 THAT comes within this chapter.

16 19. Violated the federal fair housing law, the Arizona civil rights
17 law or any local ordinance of a similar nature.

18 20. Tendered to a buyer a wood infestation report in connection
19 with the transfer of residential real property or an interest in
20 residential real property knowing that wood infestation exists or that the
21 wood infestation report was inaccurate or false as of the date of the
22 tender or that an inspection was not done in conjunction with the
23 preparation of the wood infestation report.

24 21. As a licensed broker, failed to exercise reasonable supervision
25 over the activities of salespersons, associate brokers or others under the
26 broker's employ or failed to exercise reasonable supervision and control
27 over the activities for which a license is required of a corporation,
28 limited liability company or partnership on behalf of which the broker
29 acts as designated broker under section 32-2125.

30 22. Demonstrated negligence in performing any act for which a
31 license is required.

32 23. Sold or leased a property to a buyer or lessee that was not the
33 property represented to the buyer or lessee.

34 24. Violated any condition or term of a commissioner's order.

35 25. Signed the name of another person on any document or form
36 without the express written consent of the person.

37 26. As a licensed school, failed to exercise reasonable supervision
38 over the activities for which a license is required for an owner,
39 director, administrator or instructor in the school's employ.

40 B. The commissioner may suspend or revoke a license, deny the
41 issuance of a license, issue a letter of concern to a licensee, issue a
42 provisional license or deny the renewal or the right of renewal of a
43 license issued under this chapter when it appears that the holder or
44 applicant has:

1 1. Procured or attempted to procure a license under this chapter
2 for the holder or applicant or another by fraud, misrepresentation or
3 deceit, or by filing an original or renewal application ~~which~~ THAT is
4 false or misleading.

5 2. Been convicted in a court of competent jurisdiction in this or
6 any other state of a felony or of any crime of forgery, theft, extortion,
7 conspiracy to defraud, a crime of moral turpitude or any other like
8 offense.

9 3. Made any substantial misrepresentation.

10 4. Made any false promises of a character likely to influence,
11 persuade or induce.

12 5. Been guilty of any conduct, whether of the same or a different
13 character than specified in this section, ~~which~~ THAT constitutes fraud or
14 dishonest dealings.

15 6. Engaged in the business of a real estate, cemetery or membership
16 camping broker or real estate, cemetery or membership camping salesperson
17 without holding a license as prescribed in this chapter.

18 7. Not shown that the holder or applicant is a person of honesty,
19 truthfulness and good character.

20 8. Demonstrated incompetence to perform any duty or requirement of
21 a licensee under or arising from this chapter. For the purposes of this
22 paragraph, "incompetence" means a lack of basic knowledge or skill
23 appropriate to the type of license the person holds or a failure to
24 appreciate the probable consequences of the licensee's action or inaction.

25 9. Violated the terms of any criminal or administrative order,
26 decree or sentence.

27 10. Violated any federal or state law, regulation or rule that
28 relates to real estate or securities or that involves forgery, theft,
29 extortion, fraud, substantial misrepresentation, dishonest dealings or
30 violence against another person or failure to deal fairly with any party
31 to a transaction that materially and adversely affected the transaction.
32 This paragraph applies equally to violations of which the licensee was
33 convicted in any lawful federal or state tribunal and to any admissions
34 made in any settlement agreement by the licensee to violations.

35 11. Failed to respond in the course of an investigation or audit by
36 providing documents or written statements.

37 C. A judgment based on a court's finding or stipulation of fraud by
38 a licensee following a trial on the merits or a criminal conviction of a
39 licensee that results in a payment from the real estate recovery fund is
40 prima facie evidence of a violation and grounds for discipline under this
41 section.

42 D. The commissioner may deny, suspend or revoke the issuance of a
43 license ~~upon~~ ON application by a corporation, a limited liability company
44 or a partnership if it appears that an owner, officer, director, member,
45 manager, partner, stockholder owning ten ~~per-cent~~ PERCENT or more of the

1 stock in the corporation or limited liability company or person exercising
2 control of the entity is a current or former licensee whose license as a
3 broker or a salesperson has been denied, suspended or revoked.

4 E. The lapsing or suspension of a license by operation of law or by
5 order or decision of the commissioner or a court of law or the voluntary
6 surrender of a license by a licensee ~~shall~~ DOES not deprive the
7 commissioner of jurisdiction to do any of the following:

8 1. Proceed with any investigation of or action or disciplinary
9 proceeding against the licensee.

10 2. Render a decision suspending or revoking the license, or denying
11 the renewal or right of renewal of the license.

12 3. Assess a civil penalty pursuant to section 32-2160.01.

13 F. For the purposes of this section:

14 1. "Letter of concern" means an advisory letter to notify a
15 licensee that, while the conduct or evidence does not warrant other
16 disciplinary action, the commissioner believes that the licensee should
17 modify or eliminate certain practices and that continuation of the
18 activities may result in further disciplinary action against the licensee.

19 2. "Provisional license" means a license that the department issues
20 and that allows a licensee to practice subject to either a consent order
21 as prescribed in section 32-2153.01 or the commissioner's terms,
22 conditions and restrictions.

23 Sec. 3. Section 32-2155, Arizona Revised Statutes, is amended to
24 read:

25 32-2155. Restriction on employment or compensation of person
26 as broker or salesperson

27 A. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, a broker
28 shall employ and pay only active licensees, and a licensee shall accept
29 employment and compensation as a licensee only from the legally licensed
30 broker to whom the licensee is licensed. If the licensee is licensed
31 through a professional corporation or a professional limited liability
32 company, the employing broker may pay and the licensee may receive
33 compensation only through the licensed professional corporation of which
34 the licensee is an officer and shareholder or the licensed professional
35 limited liability company of which the licensee is a member or manager.

36 B. It is unlawful for a person, firm or corporation, whether AN
37 obligor, escrow holder or otherwise, to pay or deliver to anyone
38 compensation for performing any of the acts specified by this chapter, as
39 a broker, who is not licensed at the time the service is rendered. An
40 identification card or certificate of license issued by the state real
41 estate department showing that the person, firm or corporation holds a
42 license for the year in which the payment is made or earned ~~shall be~~ IS
43 sufficient proof to relieve from any penalty for a violation of this
44 section the obligor, escrow holder or other person who relied in good
45 faith on the card or certificate.

1 C. A real estate broker or real estate salesperson shall not
2 collect compensation for rendering services in negotiating loans secured
3 by real property unless all of the following apply:

4 1. The broker or salesperson is licensed pursuant to title 6,
5 chapter 9 or is an employee, officer or partner of a corporation or
6 partnership licensed pursuant to title 6, chapter 9.

7 2. The broker or salesperson has disclosed to the person from whom
8 the compensation is collected that the broker or salesperson is receiving
9 compensation both for real estate brokerage, when applicable, and for
10 mortgage broker services.

11 3. The compensation does not violate any other state or federal
12 law.

13 D. Notwithstanding subsection A of this section, brokers WHO ARE
14 licensed under this chapter may employ residential leasing agents or
15 managers of residential rental properties, as prescribed by section
16 32-2121, subsection A, paragraph 6. The exemption of residential leasing
17 agents or managers of residential rental property under article 2 of this
18 chapter ~~shall~~ DOES not ~~be construed to~~ exempt the designated broker from
19 the responsibility to exercise reasonable supervision over these leasing
20 agents or managers.

21 E. A BROKER MAY EMPLOY AND PAY A TRANSACTION COORDINATOR WHETHER OR
22 NOT THE TRANSACTION COORDINATOR HOLDS A LICENSE UNDER THIS CHAPTER. A
23 TRANSACTION COORDINATOR MAY ACCEPT EMPLOYMENT AND COMPENSATION FROM ANY
24 BROKER WHO IS LICENSED PURSUANT TO THIS CHAPTER AND MAY ACCEPT EMPLOYMENT
25 AND COMPENSATION FROM MORE THAN ONE BROKER AT A TIME.